



DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY EUROPE and SEVENTH ARMY
OFFICE OF THE JUDGE ADVOCATE
UNIT 29351
APO AE 09014

REPLY TO
ATTENTION OF:

AEAJA-KL (00/226)

JUN - 6 2001

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Bottled Water and Water Coolers

1. References.

a. DoD FMR, Vol. 10, Ch. 12, ¶ 120203.

b. DFAS-IN Regulation 37-1, *Finance and Accounting Policy Implementation*, ¶ 092020, January 2000.

2. Recent articles in Stars & Stripes concerning water quality on military bases in Europe have highlighted the prevalence of bottled water consumption. The widespread availability of commercially bottled water and electric water coolers (either for sale or rent) does not automatically mean these commodities may be purchased with appropriated funds (APF). As a general rule, bottled water is a personal expense. IMPAC card holders should not use their IMPAC cards to procure bottled water or water coolers unless:

a. The activity desiring to purchase bottled water is facing circumstances consistent with the guidance below; and,

b. The activity has first obtained a fact-specific written legal opinion indicating that, under the circumstances, the purchase is not legally objectionable.

3. Bottled drinking water may be bought with APF only when the public water supply is declared unsafe for human consumption or no public water supply is available, and there is a Governmental necessity to purchase bottled drinking water.

a. Water that is medically unfit for human consumption means a competent medical or public health authority has tested the water and unequivocally determined that the water is so bacterially contaminated or otherwise polluted that it is medically unfit or unsafe for human consumption.

b. Nonavailability results from the lack of a local water supply or the nonexistence, interruption, or significant unreliability of a connection to the local water supply.

c. If a public or municipal water supply is available and medically fit for human consumption, APF can be used to provide access to that water supply (e.g., a drinking fountain), but APF may not be used to purchase bottled water or water coolers.

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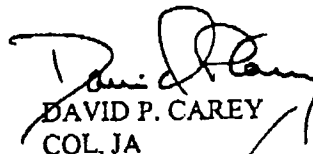
4. In the rare instance where there is no local municipal or public water supply available, APF may be used to procure bottled water and water coolers **only** if there is a **Governmental necessity**. The buying activity must produce sufficient evidence supporting why it is necessary for the Government to expend APF for bottled water, which is normally a personal expense. The necessity of the purchase must be viewed from the Government's standpoint – not from the standpoint of the employees' needs or preferences.

a. Governmental necessity factors to consider include a work site's remoteness, the reasonable availability of alternate water supplies, the expected duration of any interruption, environmental factors bearing on the need for the water, the importance of a particular mission, the period of time for which water will be provided, the cost of providing the water, and the cost of providing access to the local water supply.

b. This necessity exception is restricted to emergency, temporary, or highly unusual operating circumstances.

5. The best way to provide bottled water and a water cooler in an office is to establish an informal office fund. Alternatively, employees may bring their own bottled water to work.

6. Please disseminate this memorandum throughout your commands. For further information, call the USAREUR OJA Contract Law Division at DSN 370-6569.


DAVID P. CAREY
COL, JA
Judge Advocate

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